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determined how and where the plant was available. A person of ordinary skill could not have done so in this case.

As noted in the last paragraph on page 2 of the Reply to Requirement for Information Under 37 CFR 1.105 filed June 2, 2005, the instant assignee never discloses information regarding varieties prior to registration to third parties, regardless of how the plant is denominated in the initial PBR papers. Applicant reiterates that the assignee as the breeder does not provide information to third parties in those instances where the plant is only referred to by its breeders' reference. No information is given with respect to the commercial name and/or variety denomination, nor where to purchase the plant. As such, and contrary to the Examiner's position, the printed publication of the PBR application under a breeders' reference in this instance cannot be linked to the public sale of the plant under its variety name by contacting the company.

Applicant also submits that the comments appearing in the fourth paragraph on page 5 of the Office Action are unnecessary. The issue here is patentability and not infringement.

The Examiner is also informed that a Change of Correspondence Address was filed June 2, 2005, but the most recent Office Action went to a previous address. The new address should be used.

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The Examiner is requested to telephone the undersigned if anything further is required in the case prior to allowance.

Respectfully submitted,

STEPTOE & JOHNSON LLP

A handwritten signature in black ink, appearing to read 'Charles A. Wendel', is written over a horizontal line.

Charles A. Wendel

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Date: October 5, 2005

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